

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL).

April 21, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated March 8, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

The AGENCY is considering changes to sales and use tax exemptions that apply to persons engaged in farming in STATE. In order to propose such a change, it is helpful to know how neighboring states and other states with a significant farming industry treat various farm equipment and consumables for sales and use tax purposes.

Please answer 'Yes' or 'No' to the following questions:

1. Does your state provide sales and use tax exemptions to persons engaged in farming?

_____ Yes _____ No (If you answered 'No,' skip questions 2 through 4.)

2. Do the farming exemptions require the following:

Exclusive use in farming? _____ Yes _____ No
Direct use in farming? _____ Yes _____ No

3. STATE law excludes from exemption machines that are attached to, fastened to, connected to, or built into real property. Does your state have a similar exclusion?

_____ Yes _____ No

4. Are sales of the following property sold to persons engaged in farming exempt from sales or use tax?

Calf stalls (portable)	_____	Yes	_____
No			
Cow mats	_____	Yes	_____ No
Nonpowered waterers	_____	Yes	_____ No

Syringes and syringe needles	_____	Yes	_____
No			
Injectable vitamins	_____	Yes	_____ No
Bovine growth hormone	_____	Yes	_____ No
Hormone growth stimulant implants	_____	Yes	_____
No			
Lubricants and fluids for farm machines	_____	Yes	_____
No			

Important: If you checked 'Yes' to any of the above questions, please provide copies of law, rules, or regulations that provide for the sales and use tax treatment.

Please mail or fax your response to me at the above address at your convenience.

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.305, which is the Department's regulation concerning Farm Machinery and Equipment. Please note that purchasers that claim the farm machinery and equipment exemption are required to provide the certification or blanket certification described in subsection (m) of Section 130.305. Please also note that the type of item is not the only consideration in determining whether or not it will qualify for the exemption. Whether a specific item qualifies for the exemption depends also on how the item will be used by the purchaser.

Machinery means major mechanical machines or major components thereof contributing to the production agriculture process or used primarily in State or federal agricultural programs. Farm machinery would include tractors, combines, balers, irrigation equipment, cattle and poultry feeders, but not improvements to real estate such as fences, barns, roads, grain bins, silos, and confinement buildings. However, certain machines qualify for the exemption if purchased by farmers directly from retailers, even though they are installed as realty improvements. See Section 130.305(i). Such machines include but are not limited to augers, grain dryers (heaters and fans), automated livestock feed bunks (but not ordinary building materials), automatic stock waterers (powered by electricity or water pressure and built into a permanent plumbing system), and water pumps serving production areas, specialty heating or lighting equipment specially required by the production process, i.e., ultraviolet lights, and special heaters for incubation. Equipment means any independent device or apparatus separate from any machinery, but essential to production agriculture. See Section 130.305(k). Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants are also considered farm machinery and equipment. See 35 ILCS 120/2-5(2).

With regard to portable barriers to confine animals, whether they qualify for the exemption depends upon how the barriers will be used. Section 130.305(k) provides, in part, that "...certain items of equipment can qualify for the

exemption even though they are installed as realty improvements. Such items of equipment include, but are not limited to, farrowing crates, gestation stalls, poultry cages, portable panels for confinement facilities and flooring used in conjunction with waste disposal machinery."

New or used repair or replacement parts, necessary for the operation of the machine used in production agriculture or in State or federal agricultural programs, qualify for the exemption. See Section 130.305(1). However, consumable supplies such as fuel, grease, oil and anti-freeze are not repair or replacement parts.

For your information, we have also enclosed a copy of 86 Ill. Adm. Code 130.1955, which is the regulation for Farm Chemicals. As you can see from the regulation, farm chemicals include any chemical product used in production agriculture, the products of which are to be sold, or in the production of care of animals that are to be sold or the products of which are to be sold.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk
Enc.